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PRESIDING OFFICER'S
RULING NO. C2001-1/4

UNITED STATES OF AMERICA
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268-0001

Complaint on Sunday and Holiday Collections

Docket No. C2001-1

PRESIDING OFFICER'S RULING ON
DAVID B. POPKIN'S MOTION TO COMPEL RESPONSES
TO INTERROGATORIES DBP/USPS-1b, 2, 3, 8, AND 9

(Issued July 6, 2001)

On June 21, 2001, David B. Popkin moved to compel the Postal Service to respond to interrogatories DBP/USPS-1b, 2, 3, 8, and 9.¹ Popkin filed the interrogatories in question on May 31, 2001.² The Postal Service filed objections to the interrogatories on June 12, 2001.³ The Service filed a response to the motion to compel on June 28, 2001.⁴ It also filed an answer to interrogatory DBP/USPS-9 on June 28, 2001, rendering the motion to compel for this interrogatory moot.⁵

¹ David B. Popkin Motion to Compel Responses to Interrogatories to the United States Postal Service [DBP/USPS-1b, 2, 3, 8, and 9] and Potential Motion for Late Acceptance, filed June 21, 2001 (Motion). The motion to compel, filed within 14 days of the Postal Service Objection as specified by Rule 26(d), is timely. Therefore, the motion for late acceptance is moot.

² David B. Popkin Interrogatories to the United States Postal Service [DBP/USPS-1-12], filed May 31, 2001.

³ Objection of the United States Postal Service to Popkin Interrogatories DBP/USPS-1-12, and Motion for Late Acceptance, filed June 12, 2001 (Objection). The Postal Service included a motion for late acceptance because the Objection was filed one day late. Granting this motion will not prejudice any party to the proceeding. Therefore, the motion for late acceptance is granted.

⁴ Response of the United States Postal Service in Opposition to the Popkin Motion to Compel Regarding DBP/USPS-1(b), 2, 3, 8, and 9, filed June 28, 2001 (Response).

⁵ Responses of the United States Postal Service to Popkin Interrogatory DBP/USPS-9, filed June 28, 2001.

Interrogatory DBP/USPS-1b requests information related to similar Exhibits that appear in both the DMM and the POM. Popkin argues that he is attempting to determine if the two Exhibits may be compared on an equal basis. DBP/USPS-1a and b state:

[a] Confirm that Exhibit 125.22 of the Postal Operations Manual [POM] – Issue 8 dated July 18, 1998 and Exhibit 1.5 of Section G011.1.5 of the Domestic Mail Manual [DMM] – Issue 56 dated January 7, 2001 are both utilized to provide Holiday Service Levels to members of the public as well as postal employees. [b] Confirm that the Definition of Terms for Holiday and Sunday contained in the DMM Exhibit also apply to the POM Exhibit. [c] . . .

The Postal Service argues that the question involves definitions that are not related to collection information (or mail processing), and therefore the question is not relevant. The Service also interprets PRC Order No. 1307 at 15 as rejecting “the contention that focus on compliance with the POM is likely to be useful” and therefore infers that there is nothing to be gained by pursuing this line of questioning.

The Exhibits in question are titled “Holiday Service Levels.” The definitions contained within the Exhibits are thus relevant to understanding the Exhibits, and holiday service levels, and thus are relevant to the subject matter of this Complaint. The Postal Service should note that PRC Order No. 1307 at 15 also states:

The POM is often useful to explain how an actual Postal Service policy, regulation or procedure relates to provisions of the Act. The POM may be used as evidence of the Postal Service’s intent, interpretation or implementation of that policy, regulation or procedure.

The nature of interrogatory DBP/USPS-1b is to understand the Postal Service’s published statements of holiday service levels. Therefore, the interrogatory is relevant, and the motion to compel a response to DBP/USPS-1b is granted.

Interrogatories DBP/USPS-2-3 request information related to the Postal Service complying with provisions of the DMM and POM. Popkin argues that answers to these interrogatories are relevant to determine whether the Postal Service has been following its own regulations and to determine if the public has been informed of the level of service that may be expected. Interrogatories DBP/USPS-2-3 state:

DBP/USPS-2. For the period of 1987 to date, please provide a complete listing of any exceptions to the holiday service levels that were approved by a District Manager as noted in the Note following Section B of Exhibit 1.5 in the DMM.

DBP/USPS-3. For the period of 1987 to date, please provide a complete listing of any exceptions to the holiday service levels that were approved by the Chief Operating Officer and Executive Vice President as noted in the Note following Section B of Exhibit 125.22 in the POM.

In its Objection, the Postal Service argues that it should be readily apparent that the DMM and POM exception procedures have been supplanted by a "memo" procedure. Thus, the answers to the interrogatories are no longer relevant. It also claims undue burden in researching this matter further. The Postal Service Response also includes the arguments previously presented in opposition to DBP/USPS-1b.

A goal of this Complaint proceeding is to understand the current Postal Service position on holiday service and the levels of service actually provided. In this respect, the interrogatories are relevant to determine the extent to which the Postal Service has been following stated procedures.

The Postal Service Objection references Docket No. R2000-1, DBP/USPS-67. The response to DBP/USPS-67c states in part "[n]o exceptions have been approved by the Chief Operating Officer and Executive Vice President." This answer also appears to be responsive to DBP/USPS-3. Thus, if the answer to DBP/USPS-67c is accurate, the Postal Service apparently may already know the answer to BP/USPS-3, or may update the answer with little effort. This makes an argument based on burden less convincing.

Similarly, the response to DBP/USPS-2 also may be readily available. However, to lessen the possible research burden, this interrogatory may be answered for the time period not to exceed three years prior to the filing of this complaint. The shorter time span should still provide adequate insight into current, or recent, Postal Service administrative procedures for the purposes of this Complaint.

The Postal Service may take an optional approach to answering DBP/USPS-2 (and DBP/USPS-3 if necessary) that would be considered responsive. This approach is offered to alleviate any unduly burdensome research that might otherwise be necessary to answer the interrogatories, and may provide better insight into current Postal Service operations. The Postal Service Objection states "the 'exceptions' procedures referred to in the POM and DMM exhibits have essentially been supplanted in recent years by Headquarters memos with respect to each individual holiday." Objection at 3. If the Postal Service position is that the POM and DMM procedures are no longer current, a more beneficial answer may be to state this fact along with a thorough description of the current procedures and an account of when the new procedures were implemented. Therefore, the motion to compel responses to DBP/USPS-2 and 3 is granted consistent with the above discussion.

Interrogatory DBP/USPS-8 requests information on retail window service on days shortly before a holiday. Popkin alleges that the reduction of window service prior to a holiday will affect the ability to introduce mail into the system. He states that the Complaint should not be limited to introduction of mail through postal receptacles, but should also include introduction of mail through window service. He also argues window service is relevant because of the requirement that all stamped mail over one pound be presented to a postal employee. DBP/USPS-8 states:

- [a] Please confirm that it is the policy of the Postal Service to eliminate or reduce retail window service on days shortly before or after a holiday as compared to a similar day of the week not related to the holiday period.
- [b] Please provide all documents [for the period from 1987 to date] stating Postal Service policy, guidance, or recommendations for deciding, or

establishing criteria for deciding, the elimination or reduction of retail window service on days shortly before or after a holiday. [c] Please advise the publicity provided to the mailing public to advise them of the elimination or reduction of retail window service. [d] Please explain and discuss any items that you are not able to confirm.

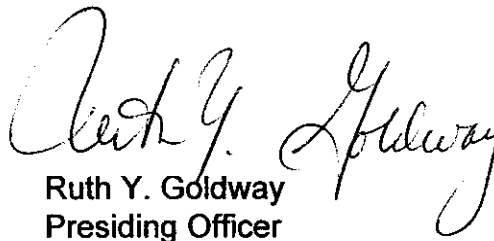
The Postal Service responds that window service is outside the scope of this Complaint, and thus is irrelevant. It also argues that it would be burdensome to research this question going back as far as 1987.

The entry of mail into the system, including the required entry of certain mail over one pound, is one of the many functions of window service. In this respect, window service is a part of the overall mail collection process. Mail collection, and thus this aspect of window service, is relevant to the instant Complaint. Additionally, the publicity question contained in subpart c of the interrogatory is relevant because it parallels the collection box issue of how postal service customers are informed of temporary changes in box collection schedules on holidays and holiday eves.

Although the collection function of window service is relevant, the Postal Service makes a valid argument that researching the information necessary to answer this interrogatory over a 14 year time span contains an element of burden. Therefore, the Postal Service may limit the scope of the interrogatory as follows. All subparts of this interrogatory may be answered in the context of holiday and holiday eve window service, and not in the broader context of "days shortly before or after a holiday." Subpart b requesting "all" documents "from 1987 to date" may be shortened to a period not to exceed the three years prior to the filing of this Complaint, and further limited to all documents issued at the national level and/or through headquarters. Similarly, the answer to subpart c may be limited to policy, guidance, etc., at the national level concerning advising the public on temporary changes to window service on holidays and holiday eves. Given the above provisions, the motion to compel a response to DBP/USPS-8 is granted.

RULING

1. The motion for late acceptance contained within David B. Popkin Motion to Compel Responses to Interrogatories to the United States Postal Service [DBP/USPS-1b, 2, 3, 8, and 9] and Potential Motion for Late Acceptance, filed June 21, 2001, is moot.
2. The motion for late acceptance contained within Objection of the United States Postal Service to Popkin Interrogatories DBP/USPS-1-12, and Motion for Late Acceptance, filed June 12, 2001, is granted.
3. The motion to compel responses to DBP/USPS-1b, 2, 3 and 8 is granted consistent with the text of this ruling.
4. The motion to compel a response to DBP/USPS-9 is moot.


Ruth Y. Goldway
Presiding Officer